

HONOURABLE Dr. JUSTICE B. SIVA SANKARA RAO

CRIMINAL PETITION No. 5801 OF 2017

ORDER :

The petitioners are accused Nos. 1 to 4 of CC.No.1581 of 2016 on the file of the XI Metropolitan Magistrate, L.B.Nagar taken cognizance for the offences punishable under Sections 498-A IPC and Sections 3 and 4 of Dowry Prohibition Act which is the outcome of Cr.No.585 of 2014 of Chaitanyapuri Police Station from the report of the 2nd respondent/defacto complainant no other than wife of Accused No.1 who is a resident of America and represented by her father A.Narasimha Reddy, GPA holder. The petitioners are seeking to quash the said Calendar case proceedings taken cognizance by the learned Magistrate from the police final report outcome of the crime supra with the contentions that leave apart there are no grounds to sustain the accusations for any of the offences, there is already a settlement arrived in the concerned divorce O.P.No.1068 of 2015 on the file of the Judge, family court, L.B.Nagar where they have taken divorce on mutual consent and in their pleadings also they made a mention of the effect to withdraw the criminal case particularly her chief-affidavit at page-2 paragraph-5 sent from abroad duly notarized on 18.8.2016. In fact, a perusal of the counter to the quash petition filed by said defacto complainant through her father/GPA holder at para-2 mentions that they did not ask to withdraw the case thereby it was not withdrawn and the allegation of her non-co-operation is not correct. When such is the case, in view of the settlement arrived, including to withdraw the case,

continuation of the calendar case proceedings is nothing but abuse of process of law in view of the law laid down by the Hon'ble Supreme Court in the case of ***RUCHI AGARWAL vs. AMIT KUMAR AGARWAL AND OTHERS***¹.

Having regard to the above, the Criminal Petition is allowed and the proceedings in C.C.No.1581 of 2016 on the file of the XI Metropolitan Magistrate are quashed. Bail bonds, if any, stand cancelled.

Miscellaneous petitions pending, if any, shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 24.1.2019.

KPM

¹ 2005 (1) ALT (CRL.) SC 101